

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

CONSTITUTION PIPELINE
COMPANY, LLC

Plaintiff,

v.

A PERMANENT EASEMENT FOR 0.33
ACRES AND TEMPORARY EASEMENTS
FOR 0.77 ACRES IN SANFORD,
BROOME COUNTY, NEW YORK, TAX
PARCEL NUMBER 103.00-1-32,
JANET M. WINDUS, et al.

Defendants.

CIVIL ACTION

Case No. 3:14-cv-02109-NAM-RFT

Electronically Filed

ORDER

AND NOW, this 19th day of February, 2015, upon consideration of Plaintiff's Omnibus Motion for Preliminary Injunction for Possession of Rights of Way by February 16, 2015 Pursuant to the Natural Gas Act and Federal Rules of Civil Procedure 71.1 and 65, and the documents and arguments submitted in reference thereto, the Motion is hereby GRANTED and:

(a) Upon filing the bond required below, beginning February 16, 2015, Plaintiff Constitution Pipeline Company, LLC ("Constitution") is granted access to, possession of and entry to the following Rights of Way:

1. A permanent right of way and easement, containing 0.33 Acres, as described as "Area of Permanent Right of Way" in Exhibit A attached hereto, for the purpose of constructing, operating, maintaining, altering, repairing, changing the size of, replacing and removing a pipeline and all related equipment and appurtenances thereto (including but not limited to meters, fittings, tie-overs, valves, cathodic protection equipment and launchers and receivers) for the transportation of natural gas, or its byproducts, and other substances as approved by the Federal Energy Regulatory Commission pursuant to the Natural Gas Act and the Order of the Federal Energy Regulatory Commission dated December 2, 2014,

Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014); together with all rights and benefits necessary or convenient for the full enjoyment or use of the right of way and easement. Defendants shall have a right of ingress and egress across the permanent right of way, but Defendants shall not build any permanent structures on said permanent right of way or any part thereof, shall not change the grade of said permanent right of way, or any part thereof, shall not plant trees on said permanent right of way, or any part thereof, or use said permanent right of way or any part thereof for a road, or use said permanent right of way or any part thereof in such a way as to interfere with Plaintiff's immediate and unimpeded access to said permanent right of way, or otherwise interfere with Plaintiff's lawful exercise of any of the rights herein granted without first having obtained Plaintiff's approval in writing, and Defendants will not permit others to do any of said acts without first having obtained Plaintiff's approval in writing, except that the landowner may construct a single driveway that crosses the permanent right of way perpendicularly after providing reasonable notice to Plaintiff provided that Defendants do not excavate or change the grade of the permanent right of way during construction of said driveway. Plaintiff shall have the right to cut the driveway if necessary to access the pipeline, but will restore the driveway to its original condition. Within the permanent right of way, Plaintiff shall also have the right from time to time at no additional cost to Defendants to cut and remove all trees including trees considered as a growing crop, all undergrowth and any other obstructions that may injure, endanger or interfere with the construction and use of said pipeline and all related equipment and appurtenances thereto.

2. Temporary easements of 0.77 acres, as described as "Area of Temporary Workspace" and "Area of Additional Temporary Workspace" in Exhibit A attached hereto, for use during the pipeline construction and restoration period only for the purpose of ingress, egress and regress and to enter upon, clear off and use for construction and all activities required by the Order of the Federal Energy Regulatory Commission dated December 2, 2014, Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014).

(b) Constitution shall post a bond in the amount of \$6,304.00 as security for the payment of just compensation to Defendants.

(c) Constitution shall record this Order in the County Clerk's Office of Broome County, New York.

IT IS SO ORDERED.

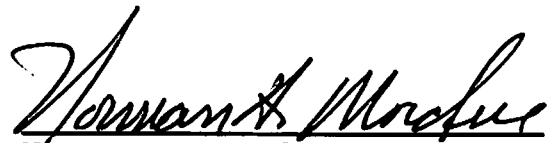
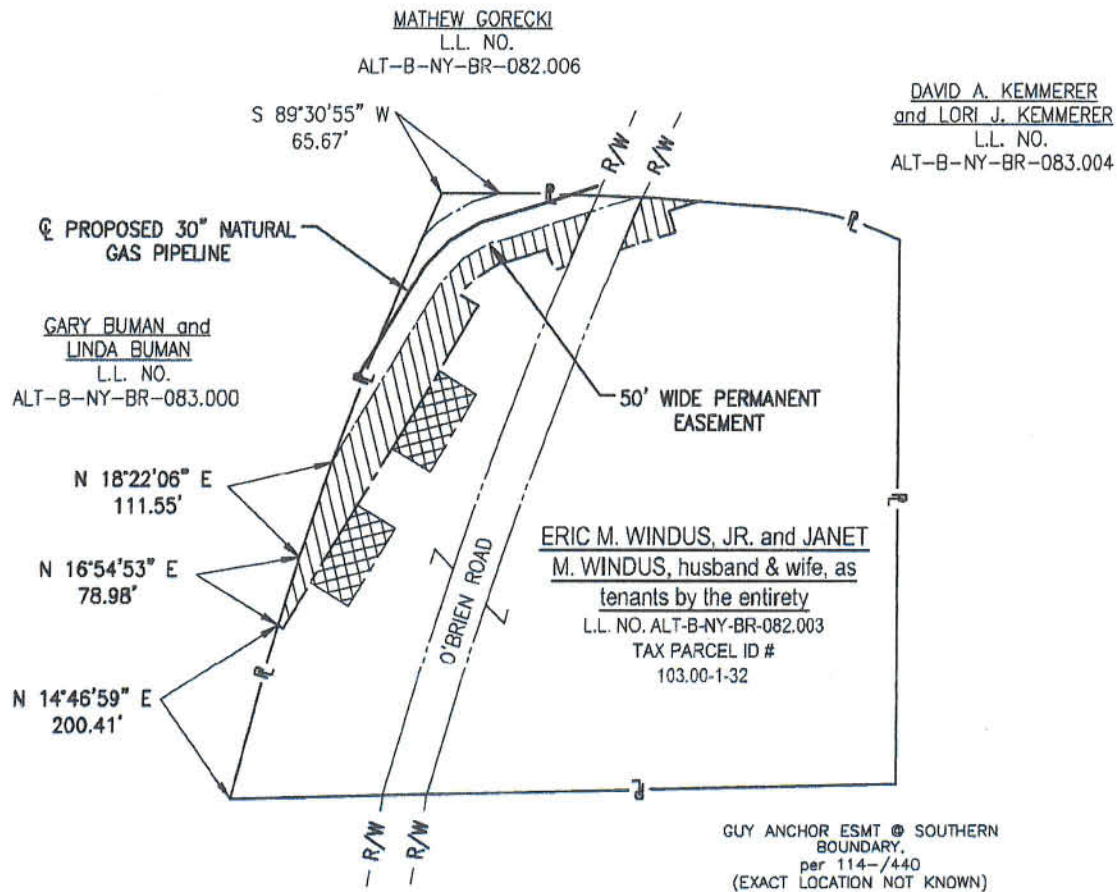

Norman A. Mordue
Senior U.S. District Judge

EXHIBIT A



NOTES:

1. BEARINGS SHOWN ARE BASED ON NAD 83, UTM ZONE 18N.

2. LENGTH OF PIPELINE 291.26'

AREA OF PERMANENT RIGHT OF WAY 0.33 AC.

AREA OF TEMPORARY WORKSPACE 0.55 AC.

AREA OF ADDITIONAL TEMPORARY WORKSPACE 0.22 AC.

3. ROADS

WE HAVE NOT DETERMINED THE FEE OWNERSHIP OF THE ROADS SHOWN, AND FOR THE PURPOSES OF THIS EXHIBIT HAVE ASSUMED THAT ADJOINING LANDOWNERS RETAIN AN INTEREST IN THE PROPERTY SUBJECT TO THE RIGHT OF WAY OF ALL ROADS SHOWN OTHER THAN INTERSTATE HIGHWAYS.

THE INFORMATION SHOWN ON THIS DRAWING IS FROM FIELD SURVEY PERFORMED BY CONSTITUTION PIPELINE COMPANY, LLC FOR THE SOLE PURPOSE OF CREATING A RIGHT OF WAY ACQUISITION AND REPRESENTS THE CONDITIONS AS THEY EXIST ON THE GROUND AS OF THE SURVEY.

NYSPLS L.C. NO. 050820

DONALD P. SCHEL

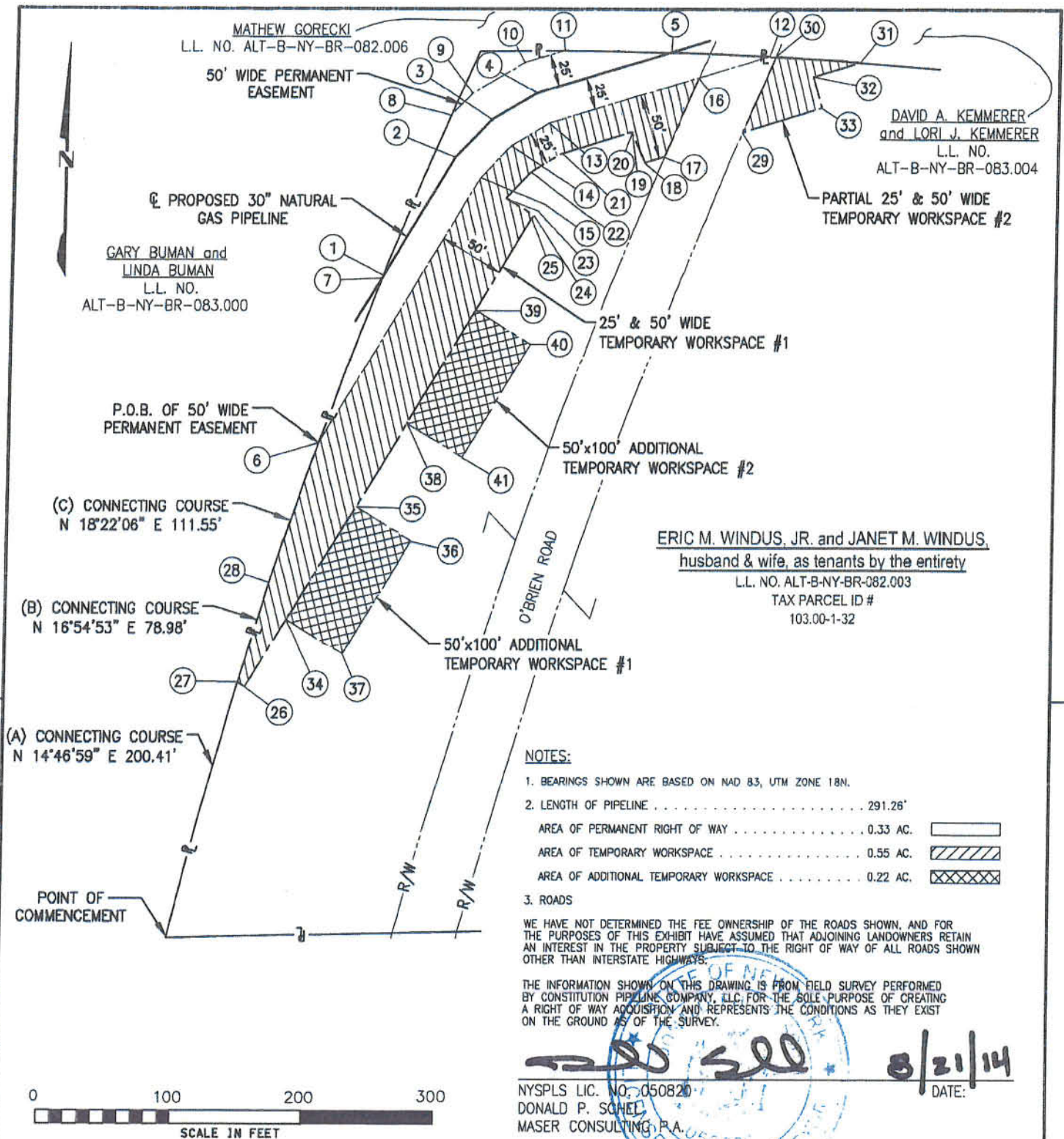
MASER CONSULTING P.A.


DATE:

8/21/14

0 200 400 600
SCALE IN FEET

DRAWING NO. 26-03-70/0001-43		REFERENCE TITLE ALIGNMENT SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF ERIC M. WINDUS, JR. and JANET M. WINDUS, husband and wife, as tenants by the entirety TOWN OF SANFORD - BROOME COUNTY, NEW YORK						
NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: GIE	DATE: 08-19-13	ISSUED FOR BID:	SCALE: 1"= 200'
A	04-10-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: MAC	DATE: 04-17-14	ISSUED FOR CONSTRUCTION:	
B	07-15-14	GIE	RE-ROUTE - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DFS	DATE: 08-14-14	DRAWING NUMBER: 26-06-85/41.87-1-0	SHEET 1
C	07-29-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			WD: 1110415			OF 6
O	08-14-14	GIE	APPROVED	1110415						



DRAWING NO. 26-03-70/0001-43			REFERENCE TITLE ALIGNMENT SHEET			<div>CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF ERIC M. WINDUS, JR. and JANET M. WINDUS, husband and wife, as tenants by the entirety TOWN OF SANFORD - BROOME COUNTY, NEW YORK</div> <div></div>				
NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: GIE	DATE: 08-18-13	ISSUED FOR BID:	SCALE: 1"= 100'
A	04-10-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: MAC	DATE: 04-17-14	ISSUED FOR CONSTRUCTION:	
B	07-15-14	GIE	RE-ROUTE - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DPS	DATE: 08-14-14	DRAWING NUMBER: 26-06-85/41.87-2-0	SHEET 2
C	07-28-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			WO: 1110415			OF 6
D	08-14-14	GIE	APPROVED	1110415						

☐ PROPOSED 30" NATURAL GAS PIPELINE

POINT#	BEARING	DISTANCE
1-2	N 30°54'02" E	104.31'
2-3	N 44°13'50" E	40.13'
3-4	N 59°34'14" E	40.13'
4-5	N 72°54'02" E	106.69'

50' WIDE PERMANENT EASEMENT

POINT#	BEARING	DISTANCE
6-7	N 20°14'08" E	133.21'
7-8	N 22°16'09" E	133.32'
8-9	N 44°13'50" E	23.27'
9-10	N 59°34'14" E	46.42'
10-11	N 72°54'02" E	32.43'
11-12	S 88°28'08" E	156.51'
12-13	S 72°54'02" W	174.89'
13-14	S 59°34'14" W	33.84'
14-15	S 44°13'50" W	33.84'
15-6	S 30°54'02" W	234.35'

25' & 50' WIDE TEMPORARY WORKSPACE #1

POINT#	BEARING	DISTANCE
6-15	N 30°54'02" E	234.35'
15-14	N 44°13'50" E	33.84'
14-13	N 59°34'14" E	33.84'
13-16	N 72°54'02" E	118.50'
16-17	S 22°44'11" W	65.11'
17-18	S 72°54'02" W	15.47'
18-19	N 23°32'28" W	23.54'
19-20	N 09°06'11" W	1.62'
20-21	S 72°54'02" W	55.98'
21-22	S 59°34'14" W	27.56'
22-23	S 44°13'50" W	27.56'
23-24	S 59°06'02" E	25.69'
24-25	S 44°13'50" W	3.00'
25-26	S 30°54'02" W	414.07'
26-27	N 58°52'35" W	6.71'
27-28	N 16°54'53" E	78.98'
28-6	N 18°22'06" E	111.55'

PARTIAL 25' & 50' WIDE TEMPORARY WORKSPACE #2

POINT#	BEARING	DISTANCE
29-30	N 23°07'30" E	63.29'
30-31	S 86°21'06" E	65.88'
31-32	S 72°54'02" W	37.65'
32-33	S 17°05'58" E	25.00'
33-29	S 72°54'02" W	64.84'

50' x 100' ADDITIONAL TEMPORARY WORKSPACE #1

POINT#	BEARING	DISTANCE
34-35	N 30°54'02" E	100.00'
35-36	S 58°52'18" E	50.00'
36-37	S 30°54'02" W	99.80'
37-34	N 59°05'58" W	50.00'

50' x 100' ADDITIONAL TEMPORARY WORKSPACE #2

POINT#	BEARING	DISTANCE
38-39	N 30°54'02" E	100.00'
39-40	S 58°52'18" E	50.00'
40-41	S 30°54'02" W	99.80'
41-38	N 59°05'58" W	50.00'

NYSPLS LIC. NO. 050820
DONALD P. SCHE
MASER CONSULTING P.A.

DATE:

8/21/14

DRAWING NO. 26-03-70/0001-43		REFERENCE TITLE ALIGNMENT SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF ERIC M. WINDUS, JR. and JANET M. WINDUS, husband and wife, as tenants by the entirety TOWN OF SANFORD - BROOME COUNTY, NEW YORK					
NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: GIE DATE: 08-13-13 CHECKED BY: MAC DATE: 04-17-14 APPROVED BY: DPS DATE: 08-14-14 W.O.: 1110415	ISSUED FOR BID: ISSUED FOR CONSTRUCTION: DRAWING NUMBER: 26-06-85/41.87-3-0	SCALE: NONE SHEET 3 OF 6
A	04-10-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	1110415					
B	07-15-14	GIE	RE-ROUTE - ISSUED FOR CONDEMNATION APPROVAL	1110415					
C	07-29-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415					
D	08-14-14	GIE	APPROVED	1110415					

DESCRIPTION FOR THE PROPOSED 50' PERMANENT EASEMENT
ACROSS PROPERTY OF
ERIC M. WINDUS, JR. and JANET M. WINDUS, husband and wife,
as tenants by the entirety
TAX PARCEL I.D. # 103.00-1-32
DEED BOOK 1847, PAGE 78
LOCATED IN TOWN OF SANFORD
BROOME COUNTY, NEW YORK

Commencing at a point in the South boundary line of the aforementioned parcel, said point being the Southwest corner and Point of Commencement; thence along the West boundary line of said parcel of land the following courses, N 14°46'59" E a distance of 200.41 feet, N 16°54'53" E a distance of 78.98 feet and N 18°22'06" E a distance of 111.55 feet to a point, said point being the Point of Beginning;


Thence, N 20°14'08" E a distance of 133.21 feet to a point;
Thence, N 22°16'09" E a distance of 133.32 feet to a point;
Thence, N 44°13'50" E a distance of 23.27 feet to a point;
Thence, N 59°34'14" E a distance of 46.42 feet to a point;
Thence, N 72°54'02" E a distance of 32.43 feet to a point located in the division line between the lands of Matthew Gorecki to the North and lands of Eric M. Windus, Jr. to the South;
Thence along said division line, S 88°28'08" E a distance of 156.51 feet to a point in the East right-of-way of O'Brien Road;
Thence pass through O'Brien Road right-of way and through the lands of said Eric M. Windus Jr., S 72°54'02" W a distance of 174.89 feet to a point;
Thence, S 59°34'14" W a distance of 33.84 feet to a point;
Thence, S 44°13'50" W a distance of 33.84 feet to a point;
Thence, S 30°54'02" W a distance of 234.35 feet to the Point of Beginning containing 0.33 acre.

All this is more fully shown on Drawing No. 26-06-85/41.87-1 thru 6 entitled "Constitution Pipeline Company, LLC - Property of Eric M. Windus, Jr. and Janet M. Windus, husband & wife, as tenants by the entirety - Located in Town of Sanford, - Broome County, New York" dated August 14, 2014.

NYSPLS LIC. NO. 050820
DONALD P. SCHE
MASER CONSULTING P.C.

DATE:

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C	07-28-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			WO: 1110415			OF 6
D	08-14-14	GIE	APPROVED	1110415						

DESCRIPTION FOR THE PROPOSED 25' & 50' TEMPORARY WORKSPACE #1

Beginning at a point in the West boundary line of the aforementioned parcel, said point being the Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 30°54'02" E a distance of 234.35 feet to a point;
 Thence, N 44°13'50" E a distance of 33.84 feet to a point;
 Thence, N 59°34'14" E a distance of 33.84 feet to a point;
 Thence, N 72°54'02" E a distance of 118.50 feet to a point located in the West right-of-way O'Brien Road;
 Thence along said West right-of-way line, S 22°44'11" W a distance of 65.11 feet to a point;
 Thence through the lands of Eric M. Windus, Jr., S 72°54'02" W a distance of 15.47 feet to a point;
 Thence, N 23°32'28" W a distance of 23.54 feet to a point;
 Thence, N 09°06'11" W a distance of 1.62 feet to a point;
 Thence, S 72°54'02" W a distance of 55.98 feet to a point;
 Thence, S 59°34'14" W a distance of 27.56 feet to a point;
 Thence, S 44°13'50" W a distance of 27.56 feet to a point;
 Thence, S 59°06'02" E a distance of 25.69 feet to a point;
 Thence, S 44°13'50" W a distance of 3.00 feet to a point;
 Thence, S 30°54'02" W a distance of 414.07 feet to a point;
 Thence, N 58°52'35" W a distance of 6.71 feet to a point in said West boundary line of the

aforementioned parcel;

Thence along said West boundary line, N 16°54'53" E a distance of 78.98 feet to a point;
 Thence, N 18°22'06" E a distance of 111.55 feet to the Point of Beginning containing 0.50 acre.

The 0.50 acre being part of the 0.55 acre total, as shown on Sheet 1, "Area of Temporary Workspace".

DESCRIPTION FOR THE PROPOSED PARTIAL 25' & 50' TEMPORARY WORKSPACE #2

Beginning at a point in the East right-of-way line of O'Brien Road, said point being located N 53°40'59" E a distance of 397.53 feet from the said Point of Beginning for the Proposed 50' Permanent Easement;

Thence along said East right-of-way line, N 23°07'30" E a distance of 63.29 feet to a point in the division line between the lands of Eric M. Windus, Jr. to the South and land of David A. Kemmerer to the North;
 Thence along said division line, S 86°21'46" E a distance of 65.88 feet to a point;
 Thence through the lands of Eric M. Windus, Jr., S 72°54'02" W a distance of 37.65 feet to a point;
 Thence, S 17°05'58" E a distance of 25.00 feet to a point;
 Thence, S 72°54'02" W a distance of 64.84 feet to the Point of Beginning containing 0.05 acre.

The 0.05 acre being part of the 0.55 acre total, as shown on Sheet 1, "Area of Temporary Workspace".



NYSPLS LIC. NO. 2050820
 DONALD P. SCHELL
 MASER CONSULTING P.A.

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							SCALE: NONE DRAWING NUMBER: 26-06-85/41.87-5-0 SHEET 5 OF 6

DESCRIPTION FOR THE PROPOSED 50' x 100' ADDITIONAL TEMPORARY WORKSPACE #1

Beginning at a point located S 09°19'44" W a distance of 135.99 feet from the said Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 30°54'02" E a distance of 100.00 feet to a point;
 Thence, S 58°52'18" E a distance of 50.00 feet to a point;
 Thence, S 30°54'02" W a distance of 99.80 feet to a point;
 Thence, N 59°05'58" W a distance of 50.00 feet to the Point of Beginning containing 0.11 acre.

The 0.11 acre being part of the 0.22 acre total, as shown on Sheet 1, "Area of Temporary Workspace".

DESCRIPTION FOR THE PROPOSED 50' x 100' ADDITIONAL TEMPORARY WORKSPACE #2

Beginning at a point located N 77°28'52" E a distance of 68.84 feet from the said Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 30°54'02" E a distance of 100.00 feet to a point;
 Thence, S 58°52'18" E a distance of 50.00 feet to a point;
 Thence, S 30°54'02" W a distance of 99.80 feet to a point;
 Thence, N 59°05'58" W a distance of 50.00 feet to the Point of Beginning containing 0.11 acre.

The 0.11 acre being part of the 0.22 acre total, as shown on Sheet 1, "Area of Temporary Workspace".



NYSPLS LIC. NO. 050820
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C	07-29-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			WO: 1110415			OF 6
D	08-14-14	GIE	APPROVED	1110415						